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9 UNITED STATES BANKRUPTCY COURT
10 EASTERN DISTRICT OF WASHINGTON

11 In Re:

No. 18-03197-11

12 GIGA WATT INC.,

13 Debtor in Possession.

12 **DEBTOR'S MOTION AND**
13 **MEMORANDUM FOR ORDER**
14 **AUTHORIZING USE OF**
15 **POSSIBLE CASH COLLATERAL**

16 **MOTION**

17 Debtor-in-Possession, Giga Watt, Inc. (the "Debtor"), by and through its
18 attorneys, Winston & Cashatt, Lawyers, by Timothy Fischer, hereby moves that
19 the court enter an Order Authorizing Use of Possible Cash Collateral, or a
20 determination that none exists, to pay necessary expenses to prevent immediate
21 and irreparable harm.
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24 **GROUND**

25 The grounds for this motion are that the use of cash collateral is necessary
26 to preserve property of the estate, and avoid immediate and irreparable harm.
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1 **BASIS**

2 The basis for this Motion is 11 U.S.C. § 363, the Declaration of Timothy R.
3
4 Fischer, the Declaration of Heather Mulhall, and all papers on file herein.

5 **ARGUMENT**

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7 **I. Background**

8 On November 19, 2018, (the “Petition Date”), the Debtor commenced this
9 case by filing a voluntary petition under Chapter 11 of Title 11, United States
10 Code (the “Code”). [Doc. No. 1]. The Debtor operates a turnkey hosting service
11 and is a full-service specialized computer power provider for the Cryptocurrency
12 industry, as well as offering Initial Coin Offerings. To fund current operations,
13 and thereby avoid irreparable harm to the estate, the Debtor seeks authority to
14 use possible cash collateral in its possession, pursuant to 11 U.S.C. § 363, FRBP
15 4001(b) and LBR 4001-2. The use of the cash collateral, if it exists, is necessary
16 to avoid immediate and irreparable harm.
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21 **II. Possible Secured Collateral at Issue**

22 The Debtor seeks approval of use the following possible collateral:

- 23 1. Cash in accounts

24 **III. Possible Liens against Cash Collateral**

25 As evidenced by the Declaration of Timothy R. Fischer, an examination of
26 the Debtor’s debts and creditors, the Debtor’s accounts are possibly subject to the
27 secured interests of Giga Plex, LLC (“Giga Plex”).
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1 The UCC Financing Statements (three in total) filed by Giga Plex on
2 November 6, 2018, encumber the following collateral:
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4 All of debtor's equipment, including gigapods, electrical infrastructure,
5 servers, trade fixtures, furnishings, accounts and all other property of
6 debtor located at 9221 Tyndall Road, Moses Lake, WA 98837

7 All of debtor's equipment, including gigapods, electrical infrastructure,
8 servers, trade fixtures, furnishings, accounts and all other property of
9 debtor located at 7890 Randolph Road, Moses Lake, WA 98837

10 All of debtor's equipment, including gigapods, electrical infrastructure,
11 servers, trade fixtures, furnishings, accounts and all other property of
12 debtor located at 7906 Randolph Road, Moses Lake, WA 98837

13 A 4th UCC filing by creditor, MLDC 1, LLC, was filed on November 21,
14 2019, and was unperfected at the time of the petition filing.
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16 From an examination of the collateral listed on the UCC Financing
17 Statements, possible cash collateral would include accounts located at the
18 described addresses. The Debtor is still trying to determine which accounts, if
19 any, are located at those addresses; the Debtor does have accounts *not* at the listed
20 addresses.
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23 To the extent that Giga Plex argues instead that the security interest
24 includes accounts not listed at the named addresses, the Debtor would set forth
25 that the other collateral greatly outweighs the cash collateral that needs to be used.
26 In preparing the soon to be filed schedules, the Debtor has non-cash collateral
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1 assets that may fit the UCC filings in the estimated amount of \$30,000,000.00;
2 \$15,000,000.00 per location at the Randolph Road sites.
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4 **IV. Need for Cash Collateral**

5 As set forth by Heather Mulhall's declaration, the use of possible cash
6 collateral is necessary to avoid immediate and irreparable harm to the estate, and
7 to maintain ongoing operations, including paying necessary utility expenses.
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10 **VI. Terms and Conditions Sought**

11 1. To the extent that it is determined that Cash Collateral actually
12 exists, the Debtor proposes to use actual Cash Collateral to pay necessary
13 ongoing expenses.
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15 2. On information and belief, Giga Plex may not be fully secured in all
16 cash collateral. Nevertheless, the Debtor will only pay those necessary expenses
17 to avoid immediate and irreparable harm.
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19 3. Giga Plex consent has not been sought prior to the filing of this
20 motion, but the Debtor will attempt to reach an agreeable solution with the
21 creditor.
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23 4. Some possible cash collateral is replenished on an ongoing basis.
24 The current estimated value of said collateral is set forth in the Declaration of
25 Heather Mulhall.
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5. The Debtor does not believe that any extra Adequate Protection Lien is necessary, as the creditor is secured in other assets in the estimated value of at least \$30,000,000.00.

CONCLUSION

Debtor respectfully requests that the Court authorize the use of Cash Collateral as set forth herein, to the extent that there is any valid lien on it.

DATED this 5th day of December, 2018.

WINSTON & CASHATT, LAWYERS

/s/ Timothy R. Fischer

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